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12		THE STATE OF CALIFORNIA
13	COUNTY	OF SAN DIEGO
14	JESSICA LINCOLN; SUZAN AHMED; CINDY BALDERRAMA; ALINA BAZAR;) CASE NO:
15	DOMAN BEDUHI; JALANA BERNARD; NORY BETANCOURT; PONDER BISHOP;	COMPLAINT FOR DAMAGES FOR:
16	EILEEN BRANDT; KIMBERLY COOK; KARLA CLEMENT; ASHLEY CREATON;	1) BREACH OF FIDUCIARY DUTY 2) INVASION OF PRIVACY –
17	MALISA CRON; KRISTINE DAVIS; MARISSA DAVIS; JENNIFER ELLIS;	INTRUSION INTO PRIVATE AFFAIRS
18 19	KRISTIN ETHERIDGE; JOSELINE OSUNA; YESENIA FELIX; AMANDA FLORES;	3) INVASION OF PRIVACY (Cal. Const., Art. 1, § 1)
	KAREN FORRESTER; MARGARET GARCIADEALBA; CHERISH GARCIA;	4) NEGLIGENCE 5) NEGLIGENT INFLICTION OF
20	TAYLOR GORMAN; CHERYL HARDER;	EMOTIONAL DISTRESS
21	MARIA FERNANDA HERNANDEZ-MORA; SARAH HOLLIS; KRISTEN HOLTZ; ANN	6) UNLAWFUL RECORDING OF
22	JACKSON; TRENA JACKSON; NICOLE	CONFIDENTIAL INFORMATION (Pen. Code
23	KAMINSKY; STACHIA KEMP; SHADIA KHOURI; DEBBIE KNIGHT; APRIL	§ 632, 637.2)
24	LOCKHART; PAOLA LOPEZ; JAMIE	DEMAND FOR JURY TRIAL
25	LOWE; MARICELA MARTINEZ; ALICIA MELLO; NICOLE MORRIS; SHANEESHA	
26	MOSELY-ROGERS; JAMIE MOSS;	
	MICHELLE MOWREY; SHELLEY NEWMAN; SHANNON NUZZO; MARTHA))
27	OLMOS; VIAN ORAHA; KIMBERLEY	
28	ORSER; DANA PEDERSEN; YARITZA)
AL /S		1

1	PEREZ; LESLIE PERKINS; SAMANTHA)
1	PLEIN; GAETANA PRINCIPATO; JAIME
2	PUZZ; AMANDA RENFROW; MICHELLE
	RODRIGUEZ; STEPHANIE RODRIGUEZ;
3	VALERIE ROSITAS; KATRINA ROTHERT; /
	HEATHER ROTHWELL; DANA RUTHERIG; /
4	SARAH SALIE; JESSICA SANCHEZ; LISA '
5	SANDERS; DEVON SANTOS; STEPHANIE (
3	SARRA; AMY SCARBOROUGH; ANGELA
6	SEVERINO; RACHEL SHADDIX; DANDI
O	SIMMONS; LOURDES SOLIS; KATREEN
7	STEPHAN; BARBARA SWISHER; REGINA)
	TEX; SONIA VALENCIA; SPRING VICK;
8	COLLEEN WALSH; KIMBERLY WEAVER;)
9	NANCY WEDIN; MICHELLE WINKLER;
9	KENDRA WOOD
10	Plaintiffs,
)
11	ý.
10	vs.
12	SHARP HEALTHCARE., a California
13	Corporation; SHARP GROSSMONT
13	HOSPITAL, and DOES 1-100 INCLUSIVE,
14)
	Defendants.
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Plaintiffs, by and through the undersigned counsel, hereby bring this Complaint for damages against Defendants, and allege the following:

INTRODUCTION

- 1. From approximately July 17, 2012 to June 30, 2013, Defendants secretly operated hidden cameras in all three Labor and Delivery operating rooms at the Women's Center at Sharp Grossmont Hospital. The hidden cameras were programmed to record anytime motion was detected in the operating rooms. The hidden cameras recorded video images of births, including Caesarean births, birth complications, dilatation and curettage to resolve miscarriages, hysterectomies, sterilizations, and other medical procedures.
- 2. Sharp secretly recorded approximately 1,800 patients using these hidden cameras. In the words of a Sharp executive, "the video clips capture scenes within the three operating rooms, which

are not open to the public. There are images contained within the multitude of images of women undergoing operations of a very personal, private nature, unconscious and in states of exposure depending on the operating being performed."

- 3. Sharp was grossly negligent in maintaining the recordings. The recordings were stored on desktop computers that could be accessed by multiple users, some without the need for a password. Sharp did not log or track who accessed the recordings, why, or when. Sharp destroyed at least half of the recordings but cannot say when or how it deleted those files and cannot confirm that it took the appropriate steps to ensure the files were not otherwise recoverable. Computers that stored the recordings were "refreshed" or replaced, and Sharp did not ensure proper deletion of recordings on those computers.
- 4. Sharp has acknowledged patients' rights to privacy in the recordings, under the California Constitution and California law. Sharp violated their right to privacy and breached its fiduciary duty in the most egregious way by secretly recording them, allowing non-medical personnel to view the recordings without making any effort to track who was viewing them, and then destroying some of the recordings.

JURISDICTION AND VENUE

- 5. The Superior Court of California for the County of San Diego has jurisdiction over this matter because the allegations and claims herein arise under California common and statutory law.
- 6. Venue is proper in this Court pursuant to Code of Civil Procedure § 395(a). Defendant is a corporation organized under the laws of California and maintains its principal place of business in San Diego, California. Defendant regularly conducts business throughout California, including San Diego County, and a substantial portion of the harm caused by Defendant to Plaintiffs took place in San Diego County.

PARTIES

7. Plaintiffs are women who had procedures including, but not limited to, delivery of babies, including Caesarean births, birth complications, dilatation and curettage to resolve miscarriages, hysterectomies, sterilizations, and other medical procedures during the time frame of July 17, 2012 to June 30, 2013. Plaintiffs' procedures occurred in one of three Labor and Delivery

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operating rooms at the Women's Center at Sharp Grossmont Hospital that contained hidden cameras placed there by the Defendants as set forth in greater detail herein.

- 8. Plaintiffs are informed and believe, and thereon allege, that they were secretly recorded by the aforementioned hidden cameras at Sharp Grossmont Hospital. Plaintiffs had reasonable expectations of privacy during their respective procedures and a reasonable expectation that Defendants would respect their privacy. None of the Plaintiffs consented at any time to Defendants' recording of their private moments and medical procedures, and would not have consented to any such recording.
- 9. Defendant Sharp HealthCare is a corporation organized under the laws of California and maintains its principal place of business at 8695 Spectrum Center Boulevard, San Diego, CA 92123.
- 10. Defendant Sharp Grossmont Hospital is an affiliate of Sharp HealthCare that maintains its principal place of business at 5555 Grossmont Center Drive, La Mesa, CA 91942.
- 11. Plaintiffs are unaware of the true names or capacities of the Defendants sued herein under the fictitious names DOES 1-100 but pray for leave to amend and serve such fictitiously named Defendants once their names and capacities become known.
- 12. Plaintiffs are informed and believe, and based thereon allege, that each and all of the acts and omissions alleged herein were performed by, or are attributable to, Defendants and DOES 1-100 (collectively "Defendants"), each acting as the agent for the other, with legal authority to act on the other's behalf. The acts of any and all Defendants were in accordance with and represent the official policies of Defendant Sharp HealthCare.
- 13. Plaintiffs are informed and believe, and based thereon allege that, at all times herein mentioned, Defendants, and each of them, ratified each and every act or omission alleged herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the damages herein alleged.
- 14. Plaintiffs are informed and believe, and based thereon allege, that each of said Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged herein.

FACTUAL ALLEGATIONS

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- 15. In July 2012, Defendants installed video cameras on the drug carts in the operating rooms in the Women's Center at Sharp Grossmont Hospital. The video cameras were installed on top of the drug carts and equipped with motion-detecting sensors that triggered them to begin recording whenever anyone entered the room and continue recording even after motion stopped.
- 16. Defendants claim that this secret video surveillance was necessary as part of their investigation into whether an employee was stealing the anesthesia drug propofol from drug carts in the operating rooms. Despite that claim, Defendants' cameras were set up to record when any person entered an operating room, to record a wide range of activity in the operating room beyond access to the drug cart, and to continue recording even after motion stopped.
- 17. Defendants recorded approximately 1,800 surgical procedures in the operating rooms between July 2012 and June 2013. These recordings show images of Defendants' female patients while they were in the operating rooms. The cameras captured images of patients entering the operating rooms, being moved onto surgery tables and exiting. Because of the angle and placement of the cameras, patients' faces were recorded, and the patients were identifiable. These recordings also show Defendants' female patients conscious and unconscious, partially robed on operating room tables, undergoing medical procedures and communicating with their doctors and medical personnel. Because of the nature of these procedures, the recordings captured women while they were emotionally and physically exposed, and at their most vulnerable. At times, Defendants' patients had their most sensitive genital areas visible.
- 18. These recordings contain matters of great sensitivity, going to the core of patients' privacy rights. Defendants recorded using hidden cameras in an area of Sharp Grossmont Hospital that is not open to the public. Entry into the operating room is limited to Defendants' employees and doctors who need to be there to perform medical procedures.
- 19. These recordings contain images of female patients and, sometimes, newly delivered babies with their doctors that Defendants allowed non-medical personnel and strangers to view and have access to view. Defendants did not log or track which employees accessed the recordings.

- 20. The patients did not consent to being recorded by Defendants during their medical procedures. Defendants have several policies that recognize and obligate them to respect the privacy of their patients. Defendants' violations of their own policies underscore the shocking and serious nature of their breach of patients' privacy. Defendants' Code of Conduct contains a "Standard of Behavior" for confidentiality that states that "Sharp HealthCare protects customers' confidentiality, privacy and modesty in all situations. We are sensitive to the personal nature of health care, and we do everything we can to earn the trust that others place in us."
- 21. According to Defendants' list of "Patient Rights," their patients have a right to "[f]ull consideration of privacy concerning their medical care program. Case discussion, examination, and treatment are confidential and should be conducted discreetly. [Patients] have to right to be advised as to the reason for the presence of any individual."
- 22. According to Defendants' list of "Patient Rights," their patients have a right to "[h]ave [their] personal privacy respected."
- 23. According to Defendants' list of "Patient Rights," their patients have a right to "[c]onfidential treatment of all communications and records pertaining to [their] care and stay in the hospital." Defendants promise their patients that "[w]ritten permission shall be obtained before medical records are made available to anyone not directly concerned with your care."
- 24. Defendants violated these rights by failing to disclose to their patients, including Plaintiffs, that a hidden camera was installed in the operating room recording their procedures, essentially inviting an unlimited number of individuals to view the private circumstances of patients' medical treatment. Defendants violated these rights further by allowing non-medical personnel, including security guards and attorneys, to view the recordings, without making any effort to log or track who viewed the recordings.
- 25. This action seeks damages for the Plaintiffs according to their individual proof, and not as part of a class action, for any and all harm they suffered as a result of being secretly and surreptitiously videotaped as set forth herein.
- 26. Plaintiffs further allege that the limitations period is tolled under principles of equitable tolling.

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BREACH OF FIDUCIARY DUTY

FIRST CAUSE OF ACTION

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(Against All Defendants)

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27. Plaintiffs incorporate by reference and re-allege as if fully stated herein the allegations set out in the preceding paragraphs.

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28. Defendants owed Plaintiffs a fiduciary duty to act with the utmost good faith in the best interests of Plaintiffs, and to act with reasonable care.

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29. Defendants further owed a fiduciary duty to maintain inviolate the confidential

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information of Plaintiffs, including, but not limited to, confidential communications under California

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Evidence Code section 992.

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30. Defendants had information relating to Plaintiffs that they knew or should have known was confidential.

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31. Defendants used Plaintiffs' confidential information for their own benefit in conducting an internal investigation or communicated their confidential information to third parties, all in violation

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of California Evidence Code section 994.

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32. Plaintiffs were ignorant of Defendants' conduct, did not authorize their conduct, did not give informed consent, or were acting under duress.

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33. Plaintiffs' confidential information was not a matter of general knowledge.

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34. Plaintiffs placed trust and confidence in Defendants.

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35. Defendants were Plaintiffs' the healthcare providers.

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36. Plaintiffs suffered harm, including but not limited to, suffering, anguish, fright, horror, nervousness, grief, anxiety, worry, shock, humiliation, embarrassment, shame, mortification, hurt feelings, disappointment, depression and feelings of powerlessness.

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37. Defendants' conduct was a substantial factor in causing Plaintiffs' harm.

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38. Defendants' conduct as alleged above was despicable; it was conduct so vile, base, or contemptible that it would be looked down on and despised by reasonable people.

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39. Defendants engaged in the conduct alleged above with malice, oppression, or fraud in that Defendants' conduct was done with a willful and knowing disregard of Plaintiffs' rights,

- 41. Plaintiffs incorporate by reference and re-allege as if fully stated herein the allegations set out in the preceding paragraphs.
- 42. Plaintiffs had a reasonable expectation of privacy in the operating rooms of Sharp Grossmont Hospital's Women Center.
- 43. Plaintiffs also had a reasonable expectation of privacy that their communications with medical personnel and their medical procedures were not being video recorded.
- 44. Plaintiffs further had a reasonable expectation that their communications with medical personnel and their medical procedures were not being recorded by Sharp security personnel or by anyone not physically present in the operating room at the time of said communications and procedures.
- 45. Defendants intentionally intruded on Plaintiffs' privacy by installing recording devices in the operating rooms.
- 46. Defendants also intentionally intruded on Plaintiffs' privacy by recording Plaintiffs' confidential communications and medical procedures in the operating rooms of Sharp Grossmont Hospital's Women's Center.
- 47. Defendants additionally intentionally intruded on Plaintiffs' privacy by allowing third parties, including Defendants' security personnel and attorneys, to view the recordings of Plaintiffs.
- 48. Defendants further intentionally intruded on Plaintiffs' privacy by disclosing certain recordings of Plaintiffs to third parties during the course of an internal investigation.

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- Plaintiffs incorporate by reference and re-allege as if fully stated herein the allegations
- Plaintiffs had a reasonable expectation of privacy in the operating rooms of Sharp Grossmont Hospital's Women's Center.
- 56. Plaintiffs also had a reasonable expectation of privacy that their communications with medical personnel and their medical procedures were not being video recorded.
- 57. Plaintiffs further had a reasonable expectation that their communications with medical personnel and their medical procedures were not being viewed or heard by Sharp security personnel or by anyone not physically present in the operating room at the time of said conversations, communications and procedures.
- 58. Defendants intentionally intruded on Plaintiffs' privacy by installing recording devices in the operating rooms.
- 59. Defendants also intentionally intruded on Plaintiffs' privacy by recording Plaintiffs' confidential communications and medical procedures in the operating rooms of Sharp Grossmont Hospital's Women's Center.

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Sharp Grossmont Hospital Women's Center.

- 76. Defendants negligently intruded on Plaintiffs' reasonable expectation of privacy by installing recording devices in the operating rooms at Sharp Grossmont Hospital Women's' Center.
- 77. Defendants also negligently intruded on Plaintiffs' privacy by recording Plaintiffs' confidential communications and medical procedures in the operating rooms of Sharp Grossmont Hospital's Women's Center.
- 78. Defendants additionally negligently intruded on Plaintiffs' privacy by allowing Defendants' security personnel to view the recordings of Plaintiffs.
- 79. Defendants further negligently intruded on Plaintiffs' privacy by disclosing certain recordings of Plaintiffs to third parties during the course of an internal investigation.
- 80. Plaintiffs suffered serious emotional distress, including, but not limited to, suffering, anguish, fright, horror, nervousness, grief, anxiety, worry, shock, humiliation, embarrassment, shame, mortification, hurt feelings, disappointment, depression and feelings of powerlessness.
- 81. The emotional distress suffered by Plaintiffs is such that an ordinary, reasonable person would be unable to cope with it.
 - 82. Defendants' conduct was a substantial factor in causing Plaintiffs' harm.

SIXTH CAUSE OF ACTION

UNLAWFUL RECORDING OF CONFIDENTIAL INFORMATION (Pen. Code §§ 632, 637.3) (Against All Defendants)

- 83. Plaintiffs incorporate by reference and re-allege as if fully stated herein the allegations set out in the preceding paragraphs.
- 84. Defendants intentionally video recorded and/or eavesdropped on Plaintiffs' confidential communications and medical procedures in the operating rooms of Sharp Grossmont Hospital's Women Center by using an electronic device (hidden video cameras).
- 85. Plaintiffs had a reasonable expectation that their medical procedures were not being video recorded.
- 86. Plaintiffs had a reasonable expectation that their communications with medical personnel and their medical procedures were not being viewed by Sharp security personnel or by anyone not physically present in the operating room at the time of those procedures.

GOMEZ TRIAL

10. For pre-judgment and all other interest recoverable; and

1	1 11. For such other additional and further relief as Plaintiffs may be entitled to	in law or in
2	equity.	
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4	4 Dated: March 29, 2019 GOMEZ TRIAL ATTORNEY	Y S
5	5 By:	
6	John H. Gomez, Esq.	
7	Ed Diab, Esq.	
8	o la	
9	Iames P. Patterson, Esc	
11	Allison H. Goddard, Esq.	
12	ADMIRE & ASSOCIATES	
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GOMEZ TRIAL ATTORNEYS

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial on all issues.

Dated: March 29, 2019

GOMEZ TRIAL ATTORNEYS

By:

John H. Gomez, Esq. Allison C. Worden, Esq. Ed Diab, Esq.

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